

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARYLAND CASUALTY COMPANY,

Plaintiff,

vs.

AVALON MANAGEMENT, LLC, *et al.*,

Defendants.

Case No.: 11-CV-5640 YGR

ORDER SETTING BRIEFING SCHEDULE Re:
STIPULATION TO VACATE ENTRY OF
DEFAULT AND ENTER PARTIAL JUDGMENT

Plaintiff Maryland Casualty Company has filed a Stipulation to Vacate Entry of Default and To Enter Judgment As Between Plaintiff and Defendant Avalon Management, LLC, Only. (Dkt. No. 53.) The stipulation seeks to vacate the default entered against Defendant Avalon Management, LLC (“Avalon”) and to enter a judgment in favor of Maryland Casualty on its claim for rescission, effectively reforming the policy to limit its coverage, with retroactive effect.

Defendants Tiburon Hospitality LLC, Tiburon Capital LLC, Tiburon Barstow LLC, Accor Franchising North America, LLC, Accor Limited Partnership, and Accor Management LLC, as well as Intervenor Sequoia Insurance Company, have filed objections to the stipulation and proposed entry of partial judgment. (Dkt No. 54.) Principally, their objections are that the proposed reformation would change the scope of coverage in a manner that would prejudice their rights as third parties and additional insureds.


Further, under Rule 54(b) of the Federal Rules of Civil Procedure, a court may direct entry of a final judgment as to less than all claims or all parties upon an express finding that “there is no just reason for delay.” Requests for entry of such a partial judgment are not granted routinely, and

1 are not favored when the legal and factual issues with respect to multiple parties or claims are
2 interrelated or a partial judgment could result in duplicative proceedings. *See Wood v. GCC Bend,*
3 *LLC*, 422 F.3d 873, 878-79 (9th Cir. 2005).

4 The Court therefore Orders that the parties' submit briefs addressing the propriety of
5 entering a partial judgment as requested and the effect of such a partial judgment on the remaining
6 claims and parties to the action. Plaintiff shall file and serve its opening brief no later than
7 November 7, 2012. Defendants and Intervenor shall file and serve their response brief no later than
8 November 21, 2012. Plaintiff may file and serve any reply brief no later than November 28, 2012.
9 The Court will notify the parties if it requires oral argument.
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12 **IT IS SO ORDERED.**

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14 Dated: 10/18/2012

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YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE